

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of

GLENN ET AL

Serial No. 09/311,720

Group Art Unit: 1644

Filed: May 14, 1999

Examiner: Ewoldt

For: SKIN-ACTIVE ADJUVANTS
FOR TRANSCUTANEOUS
IMMUNIZATION

November 5, 2001

RESPONSE

Hon. Commissioner of
Patents and Trademarks
Washington, D.C. 20231

Sir:

In response to the Office Action dated October 5, 2001, the applicants request the Examiner to reconsider his position that the applicants' response of July 10, 2001 was non-responsive because the applicants in their response elected the Group II claims instead of the Group III claims, as initially elected. It is thought that since the Examiner had made a new requirement for election of species, the applicants should have an opportunity to change their restriction election while making appropriate elections of species. It is believed fair to permit the applicants to make this change in view of the Examiner's change of position and, particularly, since no apparent consideration has as yet been given to the claims on their merits. It is also noted that the applicants have presented claims for interference in this case and those claims appear to fall within the Group II claims.

The applicants have indicated their elected species for the Group II claims in their July 10, 2001 submission. However, if the Examiner maintains his position that the Group III claims must be considered herein, the applicants elect bacterial antigens with *E. coli* elected as a subspecies of bacterial antigen. As the adjuvant, the applicants elect ADP ribosylating exotoxin with *E. coli* heat-labile enterotoxin (LT) the elected subspecies. It is urged, however, that the Examiner should withdraw the election of species requirement at least as it relates to antigens as it is believed the invention should be considered on the basis of pathogens broadly.

All of the Group III claims are readable on the elected species.

It is believed that the foregoing comments are fully responsive to the outstanding action.


Reconsideration is requested to the extent indicated with favorable action on the merits.

Entry of the attached substitute declaration/power of attorney is requested. The attachment adds Elizabeth Arwine as an attorney of record.

Favorable action is requested.

Respectfully submitted,

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By 

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